

**James Madison to Thomas Jefferson, June 1, 1794.
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ed. Gaillard Hunt. New York: G.P. Putnam's Sons,
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TO THOMAS JEFFERSON. MAD. Mss.

Philada, June 1, 1794.

Dear Sir

The stamp act was poisoned by the ingredient of the tax on transfers. The sentinels of stock uniting with the adversaries of the general plan formed a large majority. The Carriage tax which only struck at the Constitution has passed the H. of Reps and will be a delicious morsel to the Senate.² The attempt of this Branch to give the P. power to raise

² The law laying a tax on carriages was passed June 5. In 1796 its constitutionality was tested before the Supreme Court, and the Court decided that being an indirect tax it was constitutional. Judge Samuel Chase, a fiery federalist, closed his opinion with this sentence: "As I do not think the tax on carriages is a *direct* tax, it is unnecessary, *at this time*, for me to determine, whether this court, *constitutionally* possesses the power to declare an act of Congress *void*, on the ground of its being made contrary to, and in violation of, the Constitution; but if the Court have such power, I am free to declare, that I will never exercise it, *but in a very clear case.*" ³ *Dallas*, 171.

Madison wrote to Jefferson, March 6, 1796, concerning the case:

"The Court has not given judgment yet on the Carriage tax. It is said the Judges will be unanimous for its constitutionality. Hamilton & Lee advocated it at the Bar, agst Campbell

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& Ingersoll. Bystanders speak highly of Campbells argument, as well as of Ingersoll's. Lee did not shine, and the great effort of his coadjutor as I learn, was to raise a fog around the subject, & to inculcate a respect in the Court for preceding sanctions in a doubtful case."—*Mad. MSS.*

an army of 10,000, if he should please, was strangled more easily in the H. of Reps than I had expected. This is the 3d or 4th effort made in the course of the Session to get a powerful military establishment, under the pretext of public danger and under the auspices of the Pts. popularity. The bill for punishing certain crimes &c. including that of selling prizes has been unexpectedly called up at the last moment of the Session. It is pretended that our Citizens will arm under French colors if not restrained. You will be at no loss for the real motive, especially as explained by the circumstances of the present crisis. The bill for complying with Fauchèt's application for a million of dollars passed the H. of Reps by a large majority. The Senate will certainly reject it. Col. M. is busy in preparing for his embarkation. He is puzzled as to the mode of getting to France. He leans towards an American vessel, which is to sail from Baltimore for Amsterdam. A direct passage to F. is scarcely to be had, and is incumbered with the risk of being captured & carried into England. It is not certain that Negro Cotton can be had here. German linens of all sorts can. Nothing of Blake. Tomorrow is the day of adjournment as fixed by the vote of the two Houses; but it will probably not take place till the last of the week. We have had 8 or 10 days of wet weather from the N. E. which seems at length to be breaking up.

Yrs. Affy.